

**To:** Newton, Cheryl[Newton.Cheryl@epa.gov]; Anderson, Andrew[anderson.andrew@epa.gov]  
**Cc:** Walts, Alan[walts.alan@epa.gov]; PIGOTT, BRUNO[BPIGOTT@idem.IN.gov]; Hyde, Tinka[hyde.tinka@epa.gov]  
**From:** Snemis, Donald (IDEM)  
**Sent:** Wed 5/4/2016 9:45:01 PM  
**Subject:** RE: SRF Pilot Information  
[Indiana Petition for Corrective Action Dec. 17 2009.pdf](#)  
[ELPC NPDES Petition Response.pdf](#)

Dear Ms. Newton and Mr. Anderson:

On Friday, April 29, members of EPA Region V's staff participated in a conference call with Paul Higginbotham and Mark Stanifer from IDEM. Included from EPA were Rhianon Dee, James Coleman, Ryan Bahr and Pat Keufler (I apologize for spelling errors). During the call, EPA staff questioned Mr. Higginbotham and Mr. Stanifer as to why IDEM does not want the pilot program, and stated that they were under pressure to focus their efforts on coal mining. As we have stated twice before, IDEM prefers the standard, traditional SRF review. When told that our decision was firm, your team indicated that they would be focusing on coal mines regardless of our choice, and that the SRF review may somehow be combined with an investigation of the issues raised in the de-delegation petition referenced in the emails below.

My understanding is that the purpose of the SRF is to assess EPA and state enforcement of the Clean Water Act (CWA), the Clean Air Act (CAA) and the Resource Conservation and Recovery Act (RCRA), which of course will include the enforcement activities of our Offices of Air, Water and Land Quality. The SRF report will allow EPA to identify recommendations for improvement to ensure fair and consistent enforcement and compliance programs across the states.

The December, 2009 de-delegation petition (attached, with IDEM's March, 2010 response) dealt with IDEM's NPDES program, which of course is focused on permits issued under the CWA. In addition to discussing coal mines, it references concentrated animal feeding operations (CAFOs), public participation rights, the U.S. Steel and BP Whiting NPDES permits in Northwest Indiana, antidegradation issues, statutory de minimus thresholds, various wastewater treatment plants, and Tier 1 impaired waters. These concerns are overstated and no longer reflect the status of the program, given the numerous changes and improvements implemented by IDEM in the last six and a half years.

We do not understand why EPA would combined the SRF, which focuses on agency-wide enforcement issues, with an investigation of a de-delegation petition filed six and a half years ago that focuses on permit issues in one branch of our Office of Water Quality. We are also confused as to why the investigation would focus only on coal mining, when the petition covers several other issues and industries.

IDEM requests that you please inform EPA Region V staff that IDEM has made its decision on the pilot program, and does not intend to go forward. Repeatedly revisiting that issue with our staff is simply unproductive. IDEM also requests that you clarify how EPA intends to go forward with the SRF review and the investigation of the de-delegation petition. If those efforts are to be joined somehow, please provide us the details.

Until these issues are resolved, we would ask that all inquiries regarding either issue be directed to IDEM's Chief of Staff, Bruno Pigott, rather than representatives of the IDEM's Offices of Air, Land and Water Quality. I realize that this is a change from what we previously indicated, but we need to clear these issues up at the executive level before going forward with either the SRF review or an investigation into the de-delegation petition. Thank you.



**Donald M. Snemis**

*Deputy Chief of Staff and General Counsel*

**Indiana Department of Environmental Management**

100 N. Senate Avenue, Room #1307

Indianapolis, Indiana 46204

Ph. (317) 234-9581

**From:** Newton, Cheryl [mailto:Newton.Cheryl@epa.gov]

**Sent:** Tuesday, April 26, 2016 10:55 AM

**To:** Snemis, Donald (IDEM)

**Cc:** Anderson, Andrew; Walts, Alan

**Subject:** RE: SRF Pilot Information

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Thanks Don – I appreciate the opportunity to revisit. In terms of the SRF then, based on our own resource constraints, we will be discussing with HQ some options that would allow us to complete our SRF commitment while perhaps still having some flexibility on our end to be as efficient as possible. We'll be in touch soon. Thanks

**From:** Snemis, Donald (IDEM) [mailto:DSnemis@idem.IN.gov]  
**Sent:** Monday, April 25, 2016 10:40 AM  
**To:** Newton, Cheryl <Newton.Cheryl@epa.gov>  
**Cc:** Anderson, Andrew <anderson.andrew@epa.gov>  
**Subject:** RE: SRF Pilot Information

Cheryl:

Thanks for the phone call and the information provided in your email below. I have discussed the issue with our Commissioner again, and I passed along all of your thoughts. We still prefer the traditional SRF approach. As to the 2009 petition filed by Sierra Club, Hoosier Environmental Council and the Environmental Law & Policy Center, it no longer reflects the status of Indiana's NPDES permit program and it should be denied. We are happy to work with EPA on both the SRF and the petition, but we prefer that the two issues remain separate. Please call if you have any further questions.



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**From:** Newton, Cheryl [mailto:Newton.Cheryl@epa.gov]  
**Sent:** Thursday, April 21, 2016 10:44 PM  
**To:** Snemis, Donald (IDEM)  
**Subject:** SRF Pilot Information

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Hi Don – Thank you again for chatting with me today. As I indicated, after being briefed on the SRF “pilot” concept, I thought it was worth at least a check-in before proceeding with the traditional approach. We have been pursuing the pilot concept with Wisconsin and Minnesota so far because it allows us to focus our reviews on areas that present the greatest opportunities to improve program operations and strengthen public health and environmental protection, versus the broader review of all program areas. We also prefer the ability to consider the most current and relevant data available rather than the rear-view mirror approach.

Another benefit of our SRF pilot approach is it creates more opportunity to work together on projects that can improve program performance even where the program is working reasonably well. An example might be a decision to conduct a joint Lean project to improve efficiency and free up more resources for program implementation. We also believe electing to work more collaboratively to review specific programs creates a better foundation for developing solutions and presenting a consistent message to the public and other stakeholders.

I mentioned that so far our Air and Radiation would be interested in focusing on the topics of penalty policy and response to violations. For our Water Division, I obtained more clarity on their proposal. The Petition (from Hoosier Environmental Council, ELPC, and Sierra Club) alleged that IDEM failed to adequately inspect, monitor and address violations of permits that have been granted to coal mining operations (and CAFOs). It is our understanding that IDNR conducts inspections at coal companies under their surface mining program and that they are also supposed to conduct inspections for the NPDES permits as well. Our Water Division is proposing to evaluate whether this is in fact occurring. In addition, they expect that a mining inspection under Indiana’s surface mining program likely looks at different things than an NPDES permit inspection. As I indicated, the Region will need to address the Petition regardless; the benefits of doing so under the umbrella of an SRF pilot are that it would be a more collaborative process and would eliminate the need to also invest in the traditional SRF review.

I hope this additional detail is useful. I look forward to hearing your thoughts. We would be happy to participate in a conference call that would include our Division Directors if that would be helpful. Thanks and have a great weekend!